

Attorney Docket No. 42929.0200

REMARKS/ARGUMENTS

In response to the Office Action dated February 2, 2004, Applicants have amended the claims to more clearly define embodiments consistent with the present invention. Claims 1, 3, 8, 14-16, 23, 25, 30, and 36-38 are pending. Reconsideration and allowance of all pending claims are respectfully requested.

Claims 1, 3, 8, 9, 14-16, 23, 25, 30, 31, and 36-38 were rejected under 35 U.S.C. § 112, first paragraph, for not complying with the written description requirement with respect to the element of "during a user's on-line session" in the claims. Applicants have canceled claims 9 and 30, and have amended claims 1 and 23 to remove the element in question from the claims.

Claims 1, 3, 8, 9, 14-16, 23, 25, 30, 31, and 36-38 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,226,618 (Downs patent). Claims 9 and 30 have been canceled. Independent claims 1 and 23 have been amended to recite that the download of the file is also based upon "a number of attempted downloads of the file by the user, and a number of successful downloads of the file by the user." This amendment is supported in the application as filed by at least claims 9 and 10, steps 538 and 540 in Figure 5C, and the text on page 25, line 8 to page 26 line 3. Therefore, claims 1 and 23 require as security checks determining if the order identifier is valid, active, and non-suppressed, and determining a number of attempted and successful downloads of the file by the user.

Even if the Downs patent discloses checking whether an order identifier is valid, active, and non-suppressed, Applicants respectfully submit that it does not disclose or suggest also checking for attempted and successful downloads. The Downs patent uses a clearinghouse to provide keys for decryption of an encrypted software file when licensed by an authorized user. In comparison, the present invention, as defined in claims 1 and 23, can provide for distinct advantages. By checking a number of attempted and successful downloads by a user, the present system has a more robust and secure download process and can also provide for trial versions of software or other types of files. Therefore, Applicants respectfully submit that claims 1 and 23 are patentable over the Downs patent.

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Applicants respectfully submit that dependent claims 3, 8, 14-16, 25, 31, and 36-38 are patentable for at least the reasons provided above for their respective base claims 1 and 23.


Claims 17 and 39 were rejected under 35 U.S.C. § 103 as having been obvious over the Edgar reference in view of Office Notice. Claims 17 and 39 have been canceled.

Claims 19, 22, 41, and 44 were rejected under 35 U.S.C. § 103 as having been obvious over the Downs patent and U.S. Patent No. 6,263,353. Claims 19, 22, 41, and 44 have been canceled.

Based upon the above amendments and remarks, Applicants respectfully request reconsideration and allowance of all pending claims.

Respectfully submitted,

Date: July 2, 2004

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